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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/041,824

01/07/2002

Deeb Daoud

22868.61

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26418

7590

06/07/2004

REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT

599 LEXINGTON AVENUE, 29TH FLOOR

NEW YORK, NY 10022-7650

EXAMINER

COLILLA, DANIEL JAMES

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

qjw

<b>Office Action Summary</b>	<b>Applicati n N .</b>	<b>Applicant(s)</b>	
	10/041,824	DAOUD, DEEB	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dan Colilla	2854	

-- The MAILING DATE f this c mmunicati n appears on th c ver sh et with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004 and 18 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,16,17,20,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 3-15,21,22 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 and 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Pri rity under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____.                                               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.                                                            | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 16-17 are objected to because of the following informalities:

In claim 3 “three of said plurality of surfaces on said distal side” has no proper antecedent basis in the claims. Applicant has not recited that there are anymore than the at least one surface on the distal side.

In claims 16-17, “said plurality of levels” has no proper antecedent basis in the claims.

In claim 17, applicant recites that the “horizontal level is in between the distal side and the proximal side of the keyboard.” However, previously in parent claim 16, applicant recited that the “horizontal level is situated on said distal side.” These statements appear to contradict one another.

In claim 25, applicant recites, “said at least one surface” in line 2. It is not clear to which surface applicant is referring since applicant has recited at least one surface on the distal side and at least one surface on the proximal side in claim 1.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

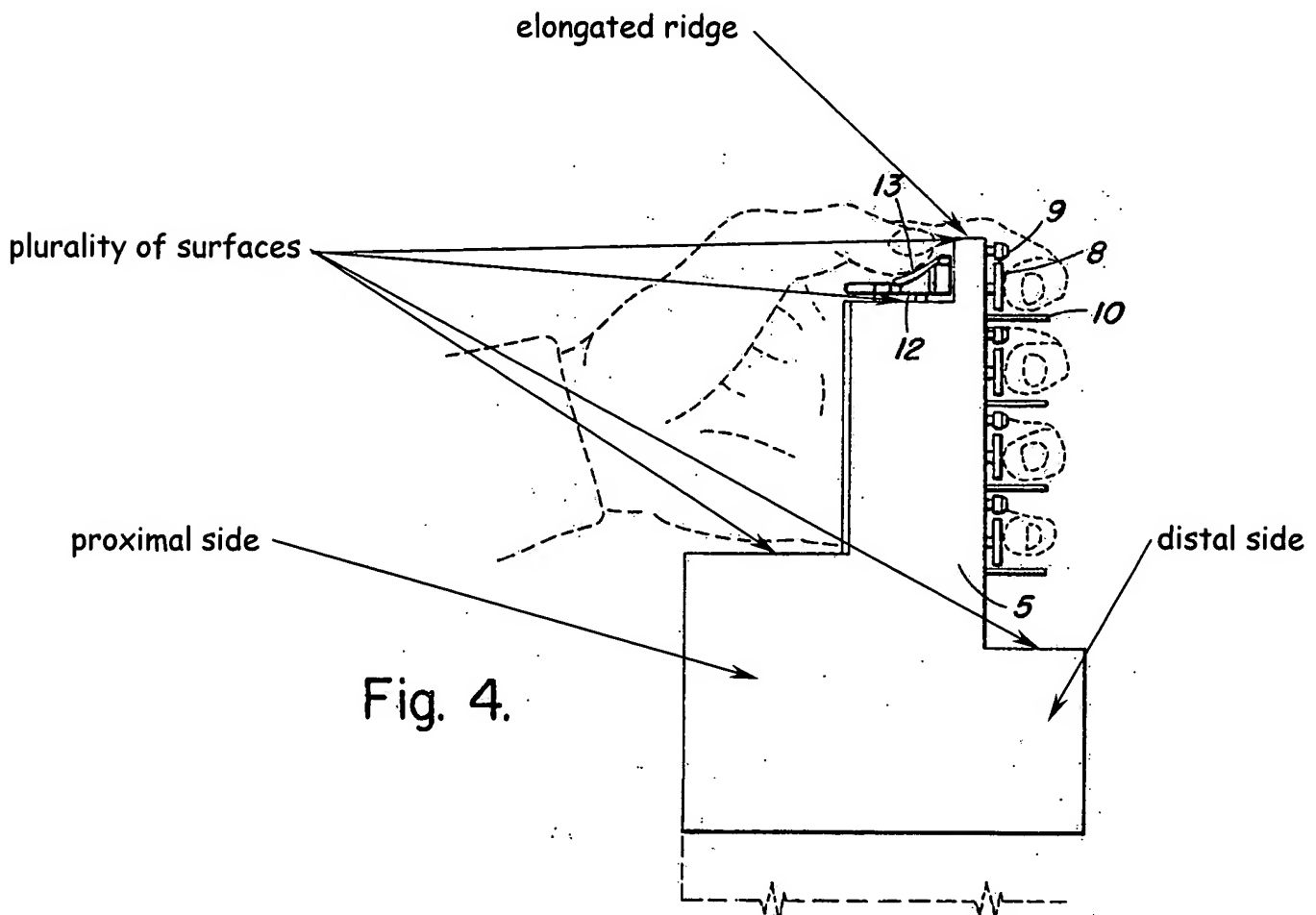
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-2, 16-17, 20 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Alferieff (US 3,428,747).

With respect to claim 1, Alferieff discloses a keyboard device utilizing the normal position or posture of the human hand (i.e. ergonomic) as disclosed in col. 1, lines 65-68). The keyboard includes a plurality of surfaces, an elongated ridge, a distal side and a proximal side as shown below in the Figure taken from Alferieff:



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Alferieff further discloses a vertical surface on the distal side and a horizontal surface located where thumbs are positioned (the surface above reference numeral 12 in the Figure). One surface near the top of the keyboard has a key 12.

With respect to claim 2, Alferieff shows a surface without any keys as shown in Figure 4 below the reference numeral 5.

With respect to claims 16-17, the surface on the distal side located below the reference numeral 5 is a horizontal surface.

With respect to claim 20, all the surfaces will move horizontally if the entire keyboard is moved in a horizontal direction.

With respect to claim 23, key 13 is located on a vertical surface between the surfaces of different elevations shown in the above Figure taken from Alferieff.

With respect to claim 24, all the surfaces will move inwardly and outwardly when the keyboard is moved with respect to a user. The inward direction being directed towards the user and the outward direction being directed away from the user.

***Allowable Subject Matter***

4. Claims 3-15 and 25 are objected to as being dependent upon a rejected base claim and objected for the above mentioned informality, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and rewritten to overcome the above mentioned informality.

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5. Claim 21-22 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

The keyboard disclosed by Alferieff meets the claims as outlined above. Note that functional language has been considered, but has not been given any patentable weight in the instances in which it does not imply structure. It is noted that claim 1 recites a significant amount of functional language of how a hand is positioned on the keyboard. This language states how the invention is intended to be used, but does not further limit the structure of the claim.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Colilla whose telephone number is (571)272-2157. The examiner can normally be reached Mon.-Thur. between 7:30 am and 6:00 pm. Faxes regarding this application can be sent to (703)872 - 9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached at (571)272-2168. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 28, 2004



Daniel J. Colilla  
Primary Examiner  
Art Unit 2854